

General Information Letter: Base income subject to tax in both Missouri and Illinois is only the portion of income from Missouri sources.

November 20, 2001

Dear:

This is in response to your request for a written explanation of the adjustment made by the Department of Revenue to the amount of credit allowed to you on line 19 of your Form IL-1040 Individual Income Tax Return for 2000. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

Your 2000 Illinois income tax return shows that you reported \$42,467 in adjusted gross income on your federal income tax return. Because you had no addition or subtraction modifications, this was also the amount of your Illinois base income reported on line 11 of your Illinois return.

The copy of the Missouri income tax return attached to your Illinois return shows that you had \$30,612 in income from Missouri sources. However, Missouri tax was computed including in your Missouri taxable income the entire \$42,467 of federal adjusted gross income you reported for 2000, and then multiplying the resulting tax by a fraction equal to the \$30,612 in Missouri-sourced income divided by the \$42,467 in federal adjusted gross income.

On your Schedule CR, you showed the entire \$42,467 as the amount of Illinois base income taxed by Missouri. The Department adjusted this amount to \$30,612, and recomputed your credit on that basis. You have asked for a written explanation of that adjustment.

Response

Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/603) allows a resident to claim a credit for taxes paid to another state on income that is subject to tax by that state and by Illinois. That section provides that:

The aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.

On your return, you claimed that the entire \$42,467 in Illinois base income was also subject to tax in Missouri. However, because the Missouri tax was only $\$30,612/\$42,467$ times the amount of tax computed on the \$42,467, you were actually taxed only on the \$30,612. This interpretation of the statute has been upheld in the cases of *Comptroller of the Treasury v. Hickey*, 114 Md. App. 388, 689 A.2d 1316 (1997) and *Chin v. Director, Division of Taxation*, 14 N.J. Tax 304 (T.C. N.J. 1994), and there are no authorities to the contrary.

Accordingly, the Department correctly adjusted your credit by computing the limitation quoted above using \$30,612 as the amount of your base income that was subject to tax both by Missouri and by Illinois.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax